

Application Serial No. 10/699,919

Amendment Dated April 29, 2005-- Response to Office Action of March 2, 2005

REMARKS/ARGUMENTS

By this paper, Applicant responds to the Office Action of March 2, 2005 and requests reconsideration of the application.

Claims 21-40 remain in this application. Claims 21, 27 and 35 are independent.

Claims 21, 27, 31, and 35-36 have been amended. It is respectfully submitted that no new matter has been added by these amendments.

Rejections under 35 U.S.C. § 112

Claims 31-34 were rejected under 35 U.S.C. 112, second paragraph,. This rejection has respectfully been overcome.

Claim 31 has been amended to clarify that the second sphere strikes the first sphere by entering the playing field after being launched from outside the playing field. Claim 31 has also been amended to correct the term "playing area" to "playing field." It is respectfully submitted that these amendments to claims 31 are not narrowing.

Applicant respectfully requests that this rejection be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 21-26, and 35-40 were rejected under 35 U.S.C. § 103(a) ("Section 103(a)") as obvious over U.S. Patent 6,585,265 to Dewa ("Dewa") in view of U.S. Patent no. 4030762 to Gilmore ("Gilmore"). This rejection is respectfully overcome.

Claim 21 recites that the spheres are "fracture resistant." Neither Dewa nor Gilmore teach, disclose, or suggest this element of the claim. Therefore, it is respectfully requested that this rejection of claim 21 and its dependent claims 22-26 be withdrawn.

Claim 35 recites that the game comprises "instructive indicia describing rules wherein the first value is compared to the second value when the first sphere contacts the second sphere to determine an outcome." It is respectfully submitted that neither Dewa nor Gilmore teach, disclose or suggest this element of the claim. At best, Dewa discloses the comparison of a first value with a second value without the contact of two pieces. Therefore, it is respectfully requested that this rejection of claim 35 and its dependent claims 36-40 be withdrawn.

Claims 27-32 were rejected under Section 103(a) as obvious over Dewa in view of Gilmore. This rejection is respectfully overcome.

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Neither Dewa nor Gilmore teaches, discloses or suggests the element in claim 27 of “physically striking the first sphere inside the playing field with a second sphere.” At best, Dewa discloses pieces “attacking” each other without physical striking. Therefore, it is respectfully requested that this rejection of claim 35 and its dependent claims 36-40 be withdrawn.

Claims 27-34 were rejected under Section 103(a) as obvious over U.S. Patent No. 5,820,126 to Moore (“Moore”) in view of Gilmore. This rejection is respectfully overcome.


Neither Moore nor Gilmore teaches, discloses or suggests the element in claim 27 of “physically striking the first sphere inside the playing field with a second sphere.” At best, Moore discloses pieces “attacking” each other without physical striking. Therefore, it is respectfully requested that this rejection of claim 35 and its dependent claims 36-40 be withdrawn.

In view of the amendments and remarks, Applicant submits that the claims are in condition for allowance, and Applicant requests that the application be passed to issue in due course.

Respectfully submitted,

Dated: April 29, 2005

By: _____


Stephen Bowling